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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/595,714

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Timothy Freeze

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EXAMINER

PAGAN, JENINE MARIE

ART UNIT

PAPER NUMBER

4147

MAIL DATE

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05/02/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/595,714	Applicant(s) FREEZE, TIMOTHY	
	Examiner JENINE M. PAGAN	Art Unit 4147	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 05 May 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p) (5) because they do not include reference numbers for claimed invention. Therefore, for examination purposes, the drawings from the application PCT/US04/38405 were used for examination. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. Regarding claims 12-16 and 20-22, the word "means" is preceded by the word(s) "engaging", "locking", "releasing" and "stopping" in an attempt to use a "means" clause to recite a claim element as a means for performing a specified function. However, since no function is specified by the word(s) preceding "means," it is impossible to determine the equivalents of the element, as required by 35 U.S.C. 112, sixth paragraph. See *Ex parte Klumb*, 159 USPQ 694 (Bd. App. 1967).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

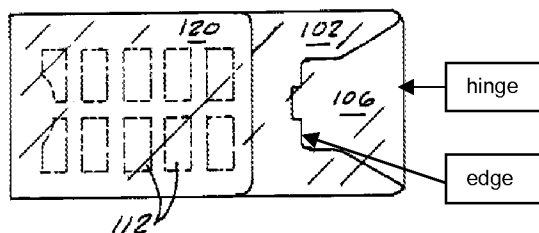
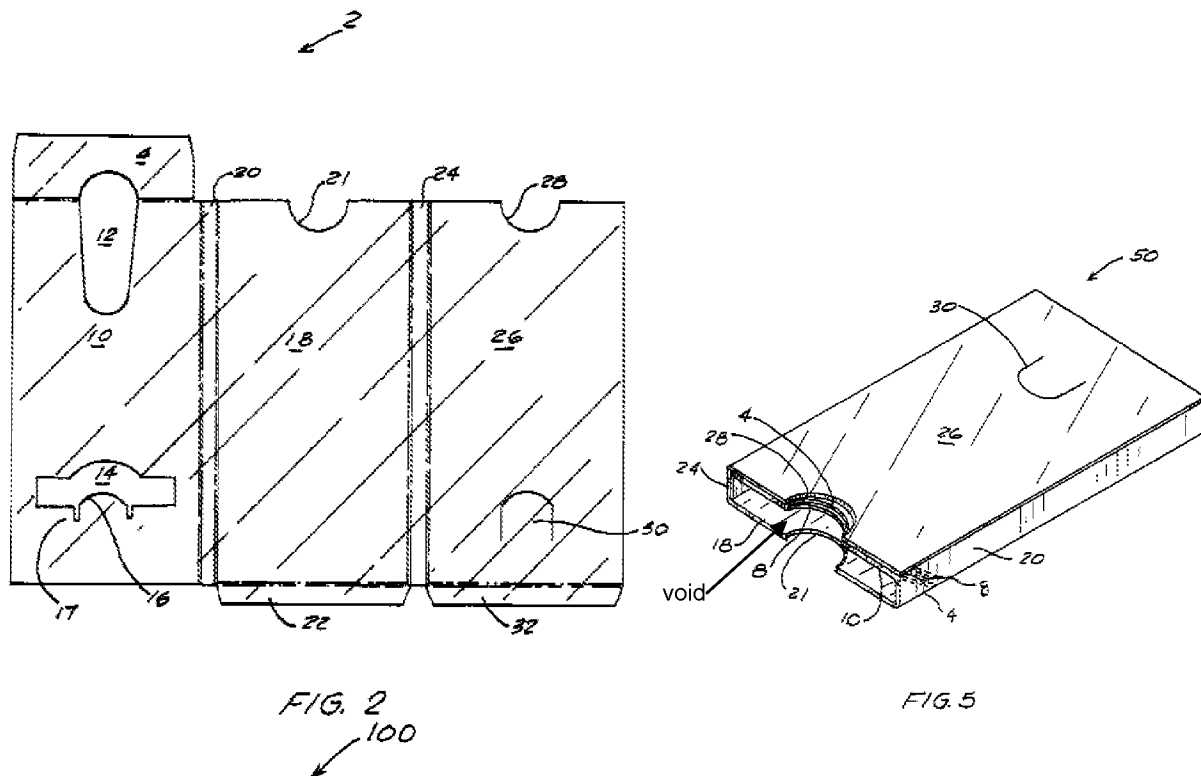


FIG. 9

Karow (US 6,230,893 B1)

4. Claims 1-2, 4-17, and 20-23 are rejected under 35 U.S.C. 102(b) as being anticipated by Karow (US 6,230,893 B1).
5. In re claim 1, with reference to Figure 2, 5 and 9, Karow '893 discloses:
 - a slide card (100) comprising an engaging element (106) and at least one tray receiving area (120);

- at least one preformed tray (112), attached to said tray receiving area (120), configured to receive and hold at least one portable item (122);
 - an outer sleeve (50) configured to receive said card (100) and attached tray (112), comprising a locking element configured to connect with said engaging element (106) at a locking position; and,
 - a release element (30) integral to said outer sleeve (50), configured to disconnect said engaging element (106) from said locking element (Column 4, Lines 61-65)
6. In re claim 2, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- card (100) is constructed of a first material and said tray (112) is constructed of a second material
7. In re claim 4, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- engaging element (106) is positioned on said tray (112)
8. In re claim 5, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- tray (112) comprises at least one receiving recess (110) configured to receive and hold said portable item (122)
9. In re claim 6, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- outer sleeve (50) further comprises an interior aperture configured to connect said engaging element (106) at a stopping position
10. In re claim 7, with reference to Figure 2, 5 and 9, Karow '893 discloses:

- a slide card (100) constructed of a first material, comprising at least a first panel (102) and at least one tray receiving area (120) located on said first panel (102);
 - at least one pre-formed tray (112) constructed of a second material and comprising at least one receiving recess (110), attached to said card (100) at said tray receiving area (120); and,
 - an outer sleeve (50) defining a void, comprising an open end configured to permit said card (100) and attached tray (112) to translate in and out of said void
11. In re claim 8, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- slide card (100) further comprises an engaging element (106) connected to at least one of said first panel(102) and said tray (112)
12. In re claim 9, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- outer sleeve (50) further comprises a locking element configured to releasably connect to said engaging element (106) at a locking position
13. In re claim 10, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- outer sleeve (50) further comprises a release (30) configured to disconnect said engaging element (106) from said locking element
14. In re claim 11, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- outer sleeve (50) further comprises a stopping element configured to connect to said engaging element (106) at a stopping position
15. In re claim 12, with reference to Figure 2, 5 and 9, Karow '893 discloses:

- a slide card (100) comprising means for engaging and at least one tray receiving area (120);
 - at least one preformed tray (112), attached to said tray receiving area (120), configured to receive and hold at least one portable item (122);
 - an outer sleeve (50) defining a void configured to receive said card (100) and attached tray (112), comprising an open end and means for locking said means for engaging; and,
 - means for releasing, integral to said outer sleeve (50), configured to disengage said means for engaging from said means for locking
16. In re claim 13, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- means for engaging comprises an element positioned on at least one of said card (100) and said tray (112) configured to cooperatively connect with said means for locking
17. In re claim 14, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- means for locking comprises an element (30) positioned within said void configured to cooperatively connect with said means for engaging (106)
18. In re claim 15, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- means for releasing (30) comprises a mechanism positioned along the exterior of said outer sleeve (50) and proximate to said locking element
19. In re claim 16, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- comprising a means for stopping (Column 3, Lines 60-67)
20. In re claim 17, with reference to Figure 2, 5 and 9, Karow '893 discloses:

- an engaging panel (106) defined by a first edge and spaced apart hinge
- a second panel (104) defined by said hinge and a spaced apart second edge; a tray integral to said second panel (104);
- at least one receiving recess (110) located within said tray (112), configured to receive and hold an item (122); and,
- a third panel (108) hingedly attached to at least one of said second edge and said tray; configured to fold over and cover said item

21. In re claim 20, with reference to Figure 2, 5 and 9, Karow '893 discloses:

- providing a slide card (100) comprising a base panel (102);
 - attaching a preformed tray (112) comprising at least one receiving recess (110) to said base panel (102);
 - providing a means for engaging associated with at least one of said card (100) and said tray (112);
 - placing an item (122) in said receiving recess (110);
 - providing an outer sleeve (50) with an open end and adjacent void, said sleeve (50) further comprising a means for locking;
 - aligning said card (100) with said open end;
 - orienting said means for engagement (106) with said means for locking;
- and
- Inserting said card (100) and tray (112) fully into said void;
 - causing said means for engaging (106) and said means for locking to releasably connect

22. In re claim 21, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- step of providing an outer sleeve (50) further comprises providing an outer sleeve (50) having a means for releasing , said means for releasing (30) configured to disconnect said means for engaging (106) and said means for locking
23. In re claim 22, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- comprising the step of manipulating said means for releasing (30) to withdraw said tray (112) at least partially from said void
24. In re claim 23, with reference to Figure 2, 5 and 9, Karow '893 discloses:
- comprising the step of withdrawing said item (122) from said recess (110)

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. Claims 3 and 18-19 rejected under 35 U.S.C. 103(a) as being unpatentable over Karow (US 6,230,893 B1).
27. In re claim 3, Karow '893 discloses the claimed invention except (second material is plastic). It would have been obvious to one having ordinary skill in the art at the time the invention was made to make the second material used for making the tray plastic, in order to make the tray strong and sturdy enough to hold the items.
28. In re claim 18, Karow '893 discloses the claimed invention except.

- tray (112) are constructed using a thermo-forming process

29. In accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product, i.e. the tray, does not depend on its method of production, i.e. thermo-forming process. ***In re Thorpe, 227 USPQ 964, 966 (Federal Circuit 1985).***

30. In re claim 19, Karow '893 discloses the claimed invention except.

- panels and said tray are constructed using an injection molding process

31. In accordance to MPEP 2113, the method of forming the device is not germane to the issue of patentability of the device itself. Therefore, this limitation has not been given patentable weight. Please note that even though product-by-process claims are limited by and defined by the process, determination of patentability is based on the product itself. The patentability of a product, i.e. side panels and tray, does not depend on its method of production, i.e. injection molding process. ***In re Thorpe, 227 USPQ 964, 966 (Federal Circuit 1985).***

Conclusion

32. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Johnstone et al. (US 6,047,829) discloses a unit dose packaging system with a locking feature. Evans et al. (US 6,491,211 B1) discloses a child resistant carton and method for using the same. Gelardi et al. (US 6,913,149 B2) discloses a unit

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dose packaging system with a locking feature. Watson (US 4,657,138) discloses a carrying case for insulin syringes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENINE M. PAGAN whose telephone number is (571)270-3216. The examiner can normally be reached on Monday - Friday, 8am-4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, George Nguyen can be reached on (571) 272-4491. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jenine M Pagan
Examiner
Art Unit 4147

JP

/George Nguyen/
Supervisory Patent Examiner, Art Unit 4147